

**LEGISLATIVE COUNSEL
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96TH CONGRESS
2D SESSION

H.R. 5615

[Report No. 96-1219, Part I]

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 1979

Mr. BOLAND (for himself, Mr. ZABLOCKI, Mr. BURLISON, Mr. MURPHY of Illinois, Mr. ASPIN, Mr. ROSE, Mr. MAZZOLI, Mr. MINETA, Mr. FOWLER, Mr. ROBINSON, Mr. ASHBROOK, Mr. McCLORY, Mr. WHITEHUEST, and Mr. YOUNG of Florida) introduced the following bill; which was referred to the Permanent Select Committee on Intelligence

AUGUST 1, 1980

Reported with an amendment, referred to the Committee on the Judiciary for a period ending not later than August 26, 1980, for consideration of such provisions of the bill and amendment as fall within its jurisdiction under clause 1(m), rule X and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain

United States intelligence officers, agents, informants, and sources.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Intelligence Identities
4 Protection Act".

5 SEC. 2. (a) The National Security Act of 1947 is
6 amended by adding at the end thereof the following new title:
7 "TITLE V—PROTECTION OF CERTAIN NATIONAL
8 SECURITY INFORMATION

9 "PROTECTION OF IDENTITIES OF CERTAIN UNITED
10 STATES UNDERCOVER INTELLIGENCE OFFICERS,
11 AGENTS, INFORMANTS, AND SOURCES

12 "SEC. 501. (a) Whoever, having or having had author-
13 ized access to classified information that—

14 "(1) identifies as an officer or employee of an in-
15 telligence agency, or as a member of the Armed
16 Forces assigned to duty with an intelligence agency,
17 any individual (A) who in fact is such an officer, em-
18 ployee, or member, (B) whose identity as such an offi-
19 cer, employee, or member is classified information, and
20 (C) who is serving outside the United States or has
21 within the last five years served outside the United
22 States; or

23 "(2) identifies as being or having been an agent
24 of, or informant or source of operational assistance to,

1 an intelligence agency any individual (A) who in fact is
2 or has been such an agent, informant, or source, and
3 (B) whose identity as such an agent, informant, or
4 source is classified information;
5 intentionally discloses to any individual not authorized to re-
6 ceive classified information any information that identifies an
7 individual described in paragraph (1) or (2) as such an officer,
8 employee, or member or as such an agent, informant, or
9 source, knowing or having reason to know that the informa-
10 tion disclosed so identifies such individual and that the United
11 States is taking affirmative measures to conceal such individ-
12 ual's intelligence relationship to the United States, shall be
13 fined not more than \$50,000 or imprisoned not more than ten
14 years, or both.

15 “(b) Whoever with the intent to impair or impede the
16 foreign intelligence activities of the United States discloses to
17 any individual not authorized to receive classified information
18 any information that—

19 “(1) identifies as an officer or employee of an in-
20 telligence agency, or as a member of the Armed
21 Forces assigned to duty with an intelligence agency;
22 any individual (A) who in fact is such an officer, em-
23 ployee, or member, (B) whose identity as such an offi-
24 cer, employee, or member is classified information, and
25 (C) who is serving outside the United States or has

1 ~~within the last five years served outside the United~~
2 ~~States; or~~

3 ~~“(2) identifies as being or having been an agent~~
4 ~~of, or informant or source of operational assistance to,~~
5 ~~an intelligence agency any individual (A) who in fact is~~
6 ~~or has been such an agent, informant, or source, and~~
7 ~~(B) whose identity as such an agent, informant, or~~
8 ~~source is classified information,~~
9 ~~knowing or having reason to know that the information dis-~~
10 ~~closed so identifies such individual and that the United States~~
11 ~~is taking affirmative measures to conceal such individual's~~
12 ~~intelligence relationship to the United States, shall be fined~~
13 ~~not more than \$5,000 or imprisoned not more than one year,~~
14 ~~or both.~~

15 ~~“DEFENSES AND EXCEPTIONS~~

16 ~~“SEC. 502. (a) It is a defense to a prosecution under~~
17 ~~section 501 that before the commission of the offense with~~
18 ~~which the defendant is charged, the United States had pub-~~
19 ~~licly acknowledged or revealed the intelligence relationship~~
20 ~~to the United States of the individual the disclosure of whose~~
21 ~~intelligence relationship to the United States is the basis for~~
22 ~~the prosecution.~~

23 ~~“(b)(1) Subject to paragraph (2), no person other than a~~
24 ~~person committing an offense under section 501 shall be sub-~~
25 ~~ject to prosecution under such section by virtue of section 2~~

1 or 4 of title 18, United States Code, or shall be subject to
2 prosecution for conspiracy to commit an offense under such
3 section.

4 “(2) Paragraph (1) shall not apply in the case of a
5 person who acted with the intent to impair or impede the
6 foreign intelligence activities of the United States.

7 “(e) In any prosecution under section 501(b), proof of
8 intentional disclosure of information described in such sec-
9 tion, or inferences derived from proof of such disclosure, shall
10 not alone constitute proof of intent to impair or impede the
11 foreign intelligence activities of the United States.

12 “(d) It shall not be an offense under section 501 to
13 transmit information described in such section directly to the
14 Select Committee on Intelligence of the Senate or to the Per-
15 manent Select Committee on Intelligence of the House of
16 Representatives.

17 “EXTRATERRITORIAL JURISDICTION

18 “SEC. 503. There is jurisdiction over an offense under
19 section 501 committed outside the United States if the indi-
20 vidual committing the offense is a citizen of the United States
21 or an alien lawfully admitted to the United States for perma-
22 nent residence (as defined in section 101(a)(20) of the Immi-
23 gration and Nationality Act).

1 “PROVIDING INFORMATION TO CONGRESS

2 “SEC. 504. Nothing in this title shall be construed as
3 authority to withhold information from Congress or from a
4 committee of either House of Congress.

5 “DEFINITIONS

6 “SEC. 505. For the purposes of this title:

7 “(1) The term ‘classified information’ means infor-
8 mation or material designated and clearly marked or
9 clearly represented, pursuant to the provisions of a
10 statute or Executive order (or a regulation or order
11 issued pursuant to a statute or Executive order), as re-
12 quiring a specific degree of protection against unau-
13 thorized disclosure for reasons of national security.

14 “(2) The term ‘authorized’, when used with re-
15 spect to access to classified information, means having
16 authority, right, or permission pursuant to the provi-
17 sions of a statute, Executive order, directive of the
18 head of any department or agency engaged in foreign
19 intelligence or counterintelligence activities, order of a
20 United States district court, or provisions of any Rule
21 of the House of Representatives or resolution of the
22 Senate which assigns responsibility within the respec-
23 tive House of Congress for the oversight of intelligence
24 activities.

1 “(3) The term ‘disclose’ means to communicate,
2 provide, impart, transmit, transfer, convey, publish, or
3 otherwise make available.

4 “(4) The term ‘intelligence agency’ means the
5 Central Intelligence Agency or any intelligence compo-
6 nent of the Department of Defense.

7 “(5) The term ‘informant’ means any individual
8 who furnishes or has furnished information to an intel-
9 ligence agency in the course of a confidential relation-
10 ship protecting the identity of such individual from
11 public disclosure.

12 “(6) The terms ‘agent’, ‘informant’, and ‘source of
13 operational assistance’ do not include individuals who
14 are citizens of the United States residing within the
15 United States.

16 “(7) The terms ‘officer’ and ‘employee’ have the
17 meanings given such terms by sections 2104 and 2105,
18 respectively, of title 5, United States Code.

19 “(8) The term ‘Armed Forces’ means the Army,
20 Navy, Air Force, Marine Corps, and Coast Guard.

21 “(9) The term ‘United States’, when used in a ge-
22 ographic sense, means all areas under the territorial
23 sovereignty of the United States and the Trust Terri-
24 tory of the Pacific Islands.”.

1 ~~(b) The table of contents at the beginning of such Act is~~
2 ~~amended by adding at the end thereof the following:~~

~~“TITLE V—PROTECTION OF CERTAIN NATIONAL SECURITY
INFORMATION~~

~~“Sec. 501. Protection of identities of certain United States Undercover intelligence
officers, agents, informants, and sources.~~

~~“Sec. 502. Defenses and exceptions.~~

~~“Sec. 503. Extraterritorial jurisdiction.~~

~~“Sec. 504. Providing information to Congress.~~

~~“Sec. 505. Definitions.”.~~

3 *That this Act may be cited as the “Intelligence Identities*
4 *Protection Act”.*

5 *SEC. 2. (a) The National Security Act of 1947 is*
6 *amended by adding at the end thereof the following new title:*

7 *“TITLE V—PROTECTION OF CERTAIN*
8 *NATIONAL SECURITY INFORMATION*
9 *“DISCLOSURE OF IDENTITIES OF CERTAIN UNITED*
10 *STATES UNDERCOVER INTELLIGENCE OFFICERS,*
11 *AGENTS, INFORMANTS, AND SOURCES*

12 *“SEC. 501. (a) Whoever, having or having had author-*
13 *ized access to classified information that identifies a covert*
14 *agent, intentionally discloses any information identifying*
15 *such covert agent to any individual not authorized to receive*
16 *classified information, knowing that the information dis-*
17 *closed so identifies such covert agent and that the United*
18 *States is taking affirmative measures to conceal such covert*
19 *agent’s intelligence relationship to the United States, shall be*
20 *finned not more than \$50,000 or imprisoned not more than ten*
21 *years, or both.*

1 “(b) Whoever, as a result of having authorized access to
2 classified information, learns the identity of a covert agent
3 and intentionally discloses any information identifying such
4 covert agent to any individual not authorized to receive clas-
5 sified information, knowing that the information disclosed so
6 identifies such covert agent and that the United States is
7 taking affirmative measures to conceal such covert agent’s
8 intelligence relationship to the United States, shall be fined
9 not more than \$25,000 or imprisoned not more than five
10 years, or both.

11 “(c) Whoever, in the course of an effort to identify and
12 expose covert agents with the intent to impair or impede the
13 foreign intelligence activities of the United States, discloses,
14 with the intent to impair or impede the foreign intelligence
15 activities of the United States, to any individual not author-
16 ized to receive classified information, any information that
17 identifies a covert agent knowing that the information dis-
18 closed so identifies such covert agent and that the United
19 States is taking affirmative measures to conceal such covert
20 agent’s intelligence relationship to the United States, shall be
21 fined not more than \$15,000 or imprisoned not more than
22 three years, or both.

23 “DEFENSES AND EXCEPTIONS

24 “SEC. 502. (a) It is a defense to a prosecution under
25 section 501 that before the commission of the offense with

1 *which the defendant is charged, the United States had pub-*
2 *licly acknowledged or revealed the intelligence relationship to*
3 *the United States of the individual the disclosure of whose*
4 *intelligence relationship to the United States is the basis for*
5 *the prosecution.*

6 “(b)(1) *Subject to paragraph (2), no person other than a*
7 *person committing an offense under section 501 shall be sub-*
8 *ject to prosecution under such section by virtue of section 2 or*
9 *4 of title 18, United States Code, or shall be subject to pros-*
10 *ecution for conspiracy to commit an offense under such*
11 *section.*

12 “(2) *Paragraph (1) shall not apply in the case of a*
13 *person who acted in the course of an effort to identify and*
14 *expose covert agents with the intent to impair or impede the*
15 *foreign intelligence activities of the United States.*

16 “(c) *In any prosecution under section 501(c), proof of*
17 *intentional disclosure of information described in such sec-*
18 *tion, or inferences derived from proof of such disclosure, shall*
19 *not alone constitute proof of intent to impair or impede the*
20 *foreign intelligence activities of the United States.*

21 “(d) *It shall not be an offense under section 501 to*
22 *transmit information described in such section directly to the*
23 *Select Committee on Intelligence of the Senate or to the Per-*
24 *manent Select Committee on Intelligence of the House of*
25 *Representatives.*

1 *"PROCEDURES FOR ESTABLISHING COVER FOR*

2 *INTELLIGENCE OFFICERS AND AGENTS*

3 *"SEC. 503. (a) The President shall establish procedures*
4 *to ensure that any individual who is an officer or employee of*
5 *an intelligence agency, or a member of the Armed Forces*
6 *assigned to duty with an intelligence agency, whose identity*
7 *as such an officer, employee, or member is classified informa-*
8 *tion and which the United States takes affirmative measures*
9 *to conceal, is afforded all appropriate assistance to ensure*
10 *that the identify of such individual as such an officer, em-*
11 *ployee, or member is effectively concealed. Such procedures*
12 *shall provide that any department or agency designated by*
13 *the President for the purposes of this section shall provide*
14 *such assistance as may be determined by the President to be*
15 *necessary in order to establish and effectively maintain the*
16 *secrecy of the identity of such individual as such an officer,*
17 *employee, or member.*

18 *"(b) Procedures established by the President pursuant*
19 *to subsection (a) shall be exempt from any requirement for*
20 *publication or disclosure.*

21 *"EXTRATERRITORIAL JURISDICTION*

22 *"SEC. 504. There is jurisdiction over an offense under*
23 *section 501 committed outside the United States if the indi-*
24 *vidual committing the offense is a citizen of the United*
25 *States or an alien lawfully admitted to the United States for*

1 *permanent residence (as defined in section 101(a)(20) of the*
2 *Immigration and Nationality Act).*

3 *“PROVIDING INFORMATION TO CONGRESS*

4 *“SEC. 505. Nothing in this title shall be construed as*
5 *authority to withhold information from Congress or from a*
6 *committee of either House of Congress.*

7 *“DEFINITIONS*

8 *“SEC. 506. For the purposes of this title:*

9 *“(1) The term ‘classified information’ means in-*
10 *formation or material designated and clearly marked*
11 *or clearly represented, pursuant to the provisions of a*
12 *statute or Executive order (or a regulation or order*
13 *issued pursuant to a statute or Executive order), as re-*
14 *quiring a specific degree of protection against unau-*
15 *thorized disclosure for reasons of national security.*

16 *“(2) The term ‘authorized’, when used with re-*
17 *spect to access to classified information, means having*
18 *authority, right, or permission pursuant to the provi-*
19 *sions of a statute, Executive order, directive of the*
20 *head of any department or agency engaged in foreign*
21 *intelligence or counterintelligence activities, order of a*
22 *United States court, or provisions of any Rule of the*
23 *House of Representatives or resolution of the Senate*
24 *which assigns responsibility within the respective*

1 *House of Congress for the oversight of intelligence*
2 *activities.*

3 “(3) The term ‘disclose’ means to communicate,
4 provide, impart, transmit, transfer, convey, publish, or
5 otherwise make available.

6 “(4) The term ‘covert agent’ means—

7 “(A) an officer or employee of an intelligence
8 agency, or a member of the Armed Forces as-
9 signed to duty with an intelligence agency—

10 “(i) whose identity as such an officer,
11 employee, or member is classified informa-
12 tion, and

13 “(ii) who is serving outside the United
14 States or has within the last five years
15 served outside the United States;

16 “(B) a United States citizen whose intelli-
17 gence relationship to the United States is classi-
18 fied information and—

19 (i) who resides and acts outside the
20 United States as an agent of, or informant
21 or source of operational assistance to, an in-
22 telligence agency, or

23 “(ii) who is at the time of the disclosure
24 acting as an agent of, or informant to, the
25 foreign counterintelligence or foreign counter-

1 *terrorism components of the Federal Bureau*
2 *of Investigation; or*

3 *“(C) an individual, other than a United*
4 *States citizen, whose past or present intelligence*
5 *relationship to the United States is classified and*
6 *who is a present or former agent of, or a present*
7 *or former informant or source of operational as-*
8 *sistance to, an intelligence agency.*

9 *“(5) The term ‘intelligence agency’ means the*
10 *Central Intelligence Agency, the foreign intelligence*
11 *components of the Department of Defense, or the for-*
12 *ign counterintelligence or foreign counterterrorist com-*
13 *ponents of the Federal Bureau of Investigation.*

14 *“(6) The term ‘informant’ means any individual*
15 *who furnishes information to an intelligence agency in*
16 *the course of a confidential relationship protecting the*
17 *identity of such individual from public disclosure.*

18 *“(7) The terms ‘officer’ and ‘employee’ have the*
19 *meanings given such terms by sections 2104 and 2105,*
20 *respectively, of title 5, United States Code.*

21 *“(8) The term ‘Armed Forces’ means the Army,*
22 *Navy, Air Force, Marine Corps, and Coast Guard.*

23 *“(9) The term ‘United States’, when used in a*
24 *geographic sense, means all areas under the territorial*

15

1 *sovereignty of the United States and the Trust Terri-*
2 *tory of the Pacific Islands.”*

3 *(b) The table of contents at the beginning of such Act is*
4 *amended by adding at the end thereof the following:*

“TITLE V—PROTECTION OF CERTAIN NATIONAL SECURITY
INFORMATION

“Sec. 501. *Disclosure of identities of certain United States undercover intelligence officers, agents, informants, and sources.*

“Sec. 502. *Defenses and exceptions.*

“Sec. 503. *Procedures for establishing cover for intelligence officers and employees.*

“Sec. 504. *Extraterritorial jurisdiction.*

“Sec. 505. *Providing information to Congress.*

“Sec. 506. *Definitions.”*

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